

NOAA's NATIONAL MARINE FISHERIES SERVICE
PERMIT FOR INCIDENTAL TAKE OF ENDANGERED/THREATENED SPECIES

Permit Number: 1573

Expiration Date: Fifty years from date of signing this Permit.

Permit Holder:

State of Washington
Washington Department of Natural Resources
1111 Washington Street SE
PO Box 47001
Olympia, Washington 98504-7001

Principal Officer and Contact:

Doug Sutherland
Commissioner of Public Lands
Washington State Department of Natural Resources
1111 Washington St SE
PO Box 47016
Olympia, Washington 98504-7016
Phone: (360) 902-1001

Reporting Requirements:

Reports described in Chapter 1-2.3 of the Washington State Forest Practices HCP (FPHCP) and in section 9 of the Implementing Agreement shall be submitted to the National Marine Fisheries Service, Washington State Habitat Branch, 510 Desmond Drive SE, Suite 103, Lacey, Washington 98503.

Authorization:

Washington State (the Permittee) and all persons conducting "covered activities" on "covered lands" as those terms are defined in sections 1-4 and 1-5 of the FPHCP are hereby authorized incidental take of 16 listed threatened and endangered species under NMFS' jurisdiction (see attached Table 1), associated with covered forest practices activities in Washington state, subject to the provisions of the Implementing Agreement for the Forest Practices HCP, the provisions of Section 10 of the Endangered Species Act of 1973 (ESA) (16 U.S.C. §§ 1531-1543), NOAA's National Marine Fisheries Service (NMFS) regulations governing ESA-listed species permits (50 C.F.R. Parts 222.301-222.309), and the conditions hereinafter set forth. Take authorization will become effective for covered unlisted species concurrent with the listing of these species under the Act and, for threatened species, the issuance of a rule prohibiting their take.

Abstract:

The FPHCP utilizes a combination of conservation measures that are expected to minimize and mitigate, to the maximum extent practicable, the impacts of take of the anadromous fish species addressed in the FPHCP. The FPHCP includes an administrative framework that supports the development, implementation, and refinement of the Forest Practices program. The FPHCP also includes a variety of protection measures designed to restore and maintain riparian upslope processes that create, restore, and maintain aquatic habitat, with particular emphasis on large woody debris recruitment and shade retention (Chapter 4). Implementation of the Forest Practices program (Chapter 4a-3) consists of multiple components, including the Washington State Department of Natural Resources (DNR)-administered forest practices permitting process (e.g., compliance monitoring and enforcement), DNR technical support (e.g., training), and DNR's Small Forest Landowner Office. To ensure that the mitigation and minimization strategies are effective, the FPHCP incorporates a variety of monitoring and reporting components and supplemental studies that will provide feedback for adaptive management, and if needed, changes in the conservation management activities set forth (Chapter 4a-4).

Incidental Take:

Covered activities (Chapter 1-4) that may cause incidental take of listed species will be conducted throughout the area covered by the FPHCP (Chapter 1-5). Covered lands are forestlands in the state of Washington subject to the Washington Forest Practices Act. The area in which covered activities will be conducted consists of approximately 9.3 million acres of forestland in Washington, about 6.1 million acres of which are located west of the crest of the Cascade Range, and approximately 3.2 million acres are in eastern Washington. Covered lands primarily include private and state forestlands, although local government forestlands are also covered by the FPHCP. Covered lands also include all locations where actions will take place to minimize or mitigate the effects of the FPHCP on the covered species.

NMFS anticipates that an undetermined number of listed species may be taken in these areas as a result of covered activities over the 50-year life of the permit. The incidental take of these species is expected to be in the form of harm, harassment, kill and injury.

General Conditions:

- 1) All sections of Title 50 *Code of Federal Regulations, part 222*, NMFS regulations governing ESA-listed species permits (50 C.F.R. Parts 222.301-222.309), are conditions of this permit. If any such regulations are modified, any future action taken with respect to this permit shall be in accordance with such regulations in existence at the time such action is taken except as specifically otherwise provided for by law or in the executed Implementing Agreement.
- 2) The authorization granted by this permit is subject to full and complete compliance with, and implementation of, the FPHCP and executed Implementing Agreement, both of which are hereby incorporated into this permit. The permit, FPHCP, and Implementing Agreement are binding upon the permittee and all persons conducting "covered activities" on "covered lands" as those terms are defined in sections 1-4 and 1-5 of the FPHCP.

- 3) The FPHCP is generally described in Chapter 4 of the document titled “Washington State Final Forest Practices Habitat Conservation Plan,” and is approved as constituted on the date of permit issuance. Any changes to the FPHCP shall be subject to the provisions of the Implementing Agreement, section 11.0, Modifications and Amendments.
- 4) A copy of this permit, including the accompanying HCP and related agreements, must be available to State personnel at DNR offices, currently located at the Forest Practices Division of WDNR in Olympia and also in each of the WDNR Region offices. All applicable provisions of this permit must be presented and clearly explained to all authorized State employees. Permittee shall ensure that all persons carrying out activities covered by the permit are made aware of its applicable requirements.
- 5) The Permittee shall refer to permit number 1573 in all correspondence and reports concerning permit activities. Any questions about this permit should be directed to the State Director, National Marine Fisheries Service, 510 Desmond Drive SE, Suite 102, Lacey, Washington 98503, telephone (360) 753-9440.
- 6) Reports described in Table 1.1 of the HCP and section 9.1 of the Implementing Agreement shall be submitted to the State Director, National Marine Fisheries Service, 510 Desmond Drive SE, Suite 102, Lacey, Washington 98503, telephone (360) 753-9440.
- 7) This permit does not authorize the Permittee or any other person to take ESA-listed species in the territorial waters of another country without the consent of that country. The Permittee is responsible for securing consent from that country and complying with that country’s appropriate laws.
- 8) The Permittee, in effecting the take authorized by this permit, is considered to have accepted the terms and conditions of this permit and to be prepared to comply with the provisions of this permit, the applicable regulations, and the ESA.
- 9) As provided for in section 9.4 of the Implementing Agreement, upon request by NMFS, the Permittee will use its best efforts to allow NMFS, or any other person(s) duly designated by NMFS, to inspect Covered Lands on which Covered Activities have occurred or are expected to occur if such activities pertain to (i) activities for which take of listed species is authorized by this permit, (ii) ESA-listed species covered by this permit, or (iii) NMFS’ responsibilities under the ESA.
- 10) For unlisted covered species, the permit will take effect upon the listing of a species as endangered, and for a species listed as threatened, on the effective date of a rule under Section 4(d) of the ESA prohibiting take of the species.
- 11) Upon locating any dead, injured, or sick individuals of any listed species covered by this permit, the Permittee shall, within three working days, notify NMFS’ Washington State Branch Office, Lacey, Washington ((360)753-9440). Instructions for proper handling and disposition of such specimens will be issued at that time. Care must be taken in handling sick or injured specimens to ensure effective treatment and care and in the handling of dead specimens to preserve biological material in the best possible state. This condition does not apply to spawned-out carcasses.
- 12) The fee in 50 C.F.R. § 222.307(d)(5) to cover the cost of issuance of this permit has been waived.

Specific Conditions

1) The Permittee shall maintain sufficient compliance and enforcement personnel whose responsibilities include conducting on-the-ground inspections of forest operations and documenting and reporting violations. The Permittee shall ensure that these personnel are trained in forest practices regulations and enforcement procedures, and that they are equipped with vehicles and other necessary facilities and equipment. The Permittee shall ensure that effective procedures are in place to identify operators who commit chronic or significant violations of forest practices regulations. The Permittee shall take enforcement actions against violators, including but not limited to notices to comply, stop work orders, corrective action orders, civil penalties, disapproval of forest practices applications, financial assurance requirements, and criminal penalties, as appropriate to deter violations of the regulations.

2) Under the 20-acre exemption provision (FPHCP section 4b-3.1.3 [WAC 222-30-023(1) for western Washington] and FPHCP section 4b-3.2.3 [WAC 222-30023(2) for eastern Washington]), the Permit shall only apply to the following:

- A. Forestlands owned by a person who affirms in writing on a forest practices application of qualifying as an eligible person under the “20-acre exemption” as of and since the date of Permit issuance.
- B. Forestlands that are purchased, inherited, or otherwise lawfully obtained by a person who affirms in writing on a forest practices application of qualifying at the time that person takes possession of the forestlands under the following provisions:
 - a. The forestlands have continually been qualified for the “20-acre exemption” since the date of Permit issuance; or,
 - b. The forestlands have not been subject to commercial harvest under the jurisdiction of the Washington Forest Practices Act since the date of Permit issuance and are being converted to forestland from another land use.
- C. Forestlands subject to a Class IV General Forest Practices Application only when the otherwise-qualifying applicant indicates on the application that he or she is not converting those forestlands to another use within three years.
- D. Forestlands in any Watershed Administrative Unit (WAU) for which the permittee has previously established, with the review and approval by NMFS, an estimate of the length of streams on FPHCP Covered Lands. The Permittee shall establish, with review and approval of NMFS, a method to reasonably estimate post-harvest the length of classified streams on a 20-acre exempt site and the proportion of riparian function as measured by recruitable LWD from the site when compared to that which would have been provided under the standard riparian strategies. The Permittee shall monitor 20-acre exempt timber harvest activities and maintain a reasonable estimate of the cumulative change in riparian function provided by FPHCP Covered Lands as measured by recruitable LWD in each WAU that results from 20-acre exempt forest practices covered by this Permit.

- a. The Permit shall not apply to forestlands subject to subsequent 20-acre exempt forest practices applications when the Permittee anticipates that forest practices on those forestlands will result in a cumulative reduction in riparian function as measured by recruitable LWD greater than 10 percent of what would have been provided in the WAU under the standard riparian strategies.
- b. The Permit shall not apply to forestlands subject to subsequent 20-acre exempt forest practices applications in a WRIA once the WAUs within the WRIA exceeding the “10 percent limit” (above) represent more than 15 percent of the total stream length on FPHCP Covered Lands in the WRIA.
- c. The Permit shall not apply to 20-acre exempt forestlands in any WAU where there is found the spawning and rearing habitat of bull trout populations identified in Table 3-51 of the U.S. Fish and Wildlife Service’s (FWS) Biological Opinion until the Permittee has established, with review and approval of the FWS, that forest practices under the 20-acre exempt provisions will not measurably diminish the level of riparian function provided by FPHCP Covered Lands in the WAU as measured by recruitable LWD when compared to that which would have been provided under the standard riparian strategies.

3) The Permittee shall require trees to be left on “20-acre-exempt” parcels along Type Np waters unless it is determined that such leave trees are not necessary to protect those covered species and their habitats. Unless determined by WDNR to be unnecessary, leave at least 29 conifer or deciduous trees, 6 inches in diameter or larger, on each side of every 1,000 feet of stream length within 29 feet of the stream. These leave trees may be arranged to accommodate the forest practices operation.

4) Each year, prior to commencement of electro-fishing surveys for adaptive management research and monitoring (including validation of the water-typing model), the Permittee shall submit an estimate of the amount of stream surveys or electro-fishing activities to be conducted and an estimate of the number of listed fish (or miles of listed-species habitat) to be affected by these activities. The Permittee shall also provide the names and qualifications of the staff, contractors, or cooperators who will be supervising the field work. The Permittee shall provide NMFS with a copy of the operating protocols designed to reduce effects to listed fish while maintaining the efficiency of the surveys and monitoring. This incidental take permit does not apply to operational water typing by individual landowners; these activities would need incidental take authorization through other means.

- 5) Following the conclusion of the field season and prior to the next field season, the Permittee will provide a report to NMFS submitted to the State Director, National Marine Fisheries Service, 510 Desmond Drive SE, Suite 102, Lacey, Washington 98503, telephone (360) 753-9440, documenting the level of stream-survey and electro-fishing activity and describing any listed fish encounters. This report will document any effects that may rise to the level of incidental take (including mortality) and will include the apparent condition of all listed fish specimens encountered. Results of surveys and monitoring will be incorporated into the appropriate FPHCP periodic reports. The Permittee shall obtain all needed Federal and State permits and will abide by the conditions of each. This includes following the guidelines provided by NMFS (NMFS 2000). If the NMFS guidelines are subsequently revised, the Permittee shall follow the revised guidelines. The Permittee shall follow the guidelines unless proposed operating protocols described above are otherwise approved by FWS and NMFS
- 6) Chemical applications (e.g., the use of pesticides, herbicides, and fertilizers) are not covered activities under this permit.

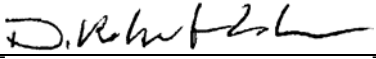
Issued by:  Date: June 5, 2006
D. Robert Lohn
Regional Administrator

Table 1. Covered Species under NMFS Jurisdiction (by listing status).

Common Name	Scientific Name
Endangered Species	
Upper Columbia River spring-run chinook salmon	<i>Oncorhynchus tshawytscha</i>
Snake River sockeye salmon	<i>O. nerka</i>
Threatened Species	
Puget Sound chinook salmon	<i>Oncorhynchus tshawytscha</i>
Lower Columbia River chinook salmon	<i>O. tshawytscha</i>
Upper Willamette River chinook salmon	<i>O. tshawytscha</i>
Snake River spring/summer run chinook salmon	<i>O. tshawytscha</i>
Snake River fall run chinook salmon	<i>O. tshawytscha</i>
Columbia River chum salmon	<i>O. keta</i>
Hood Canal summer run chum salmon	<i>O. keta</i>
Ozette Lake sockeye salmon	<i>O. nerka</i>
Puget Sound steelhead - proposed	<i>O. mykiss</i>
Lower Columbia River steelhead	<i>O. mykiss</i>
Middle Columbia River steelhead	<i>O. mykiss</i>
Upper Columbia River steelhead	<i>O. mykiss</i>
Snake River Basin steelhead	<i>O. mykiss</i>
Upper Willamette River steelhead	<i>O. mykiss</i>

Table 1 (cont'd).

Common Name	Scientific Name
Unlisted Species	
Pink salmon (all ESUs)	<i>Oncorhynchus gorbuscha</i>
Coho salmon (all ESUs)	<i>O. kisutch</i>
Chinook salmon (all unlisted ESUs)	<i>O. tshawytscha</i>
Chum salmon (all unlisted ESUs)	<i>O. keta</i>
Sockeye salmon (all unlisted ESUs)	<i>O. nerka</i>
Steelhead (all unlisted ESUs)	<i>O. mykiss</i>
Green sturgeon (marine fish)	<i>Acipenser medirostris</i>
White sturgeon (marine fish)	<i>A. transmontanus</i>
Eulachon (marine fish)	<i>Theleichthys pacificus</i>
Shiner perch (marine fish)	<i>Cymatogaster aggregata</i>
Pacific staghorn sculpin (marine fish)	<i>Leptocottus armatus</i>
Starry flounder (marine fish)	<i>Platichthys stellatus</i>
Surf smelt (marine fish)	<i>Hypomesus pretiosus</i>
Pacific sandlance (marine fish)	<i>Ammodytes hexapterus</i>
Pacific herring (marine fish)	<i>Clupea pallasii</i>